



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/802,794 | 03/09/2001 | Toshiyuki Fukushima | YAMAP0755US | 8297 |

7590 11/30/2004

Neil A. DuChes
Renner, Otto, Boisselle & Sklar
19th Floor
1621 Euclid Avenue
Cleveland, OH 44115

EXAMINER

BATTAGLIA, MICHAEL V

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2652

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,794

Applicant(s)

FUKUSHIMA ET AL.

Examiner

Michael V Battaglia

Art Unit

2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26,27,29-32,58,59 and 61-64 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 26,27,29-32,58,59 and 61-64 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 09 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action, dated November 16, 2004, is in response to Applicant's amendment, filed August 5, 2004. Claims 26, 27, 29-32, 58, 59 and 61-64 are pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26, 27, 29, 30, 58, 59 and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe (US 5,598,395).

In regard to claim 26, Watanabe discloses an information recording and reproduction method for an information recording medium, wherein a temperature range indicating a range of apparatus temperatures of an information recording and reproduction apparatus includes a plurality of segmented temperature ranges each individually defined on the recording medium (Fig. 2 and Col. 5, lines 30-36), the method comprising the steps of: (a) measuring an apparatus temperature of the information recording and reproduction apparatus (Fig. 3, element S1); (b) obtaining a recording and reproduction condition corresponding to a segmented temperature range which includes the measured apparatus temperature (Fig. 3, element S5); and (c) performing recording and reproduction based on the obtained recording and reproduction condition (Fig. 3, element S6), wherein the step (b) includes the step of acquiring the recording and reproduction condition by adjustment processing (Fig. 3, element S5). The step is interpreted as including adjustment processing because the step is used to adjust laser power.

In regard to claim 27, Watanabe discloses that the recording and reproduction condition defines an operation condition when an information recording and reproduction apparatus which can have the information recording medium mounted thereon performs data recording and reproduction (Fig. 2).

In regard to claim 29, Watanabe discloses that the method according to claim 28 further comprises the step of: (d) recording the recording and reproduction condition on the information recording medium (Col. 5, lines 32-36).

In regard to claim 30, Watanabe discloses that the information recording medium includes a drive information area having drive information including the recording and reproduction condition recorded therein, and, the step (b) includes the step of reading the recording and reproduction condition recorded in the drive information area (Col. 5, lines 32-36).

In regard to claim 58, Watanabe discloses an information recording and reproduction apparatus for an information recording medium, wherein a temperature range indicating a range of apparatus temperatures of the information recording and reproduction apparatus includes a plurality of segmented temperature ranges each individually defined on the recording medium (Fig. 2 and Col. 5, lines 30-36), the apparatus comprising: a temperature measuring section for measuring an apparatus temperature of the information recording and reproduction apparatus (Fig. 1, element 14); an adjustment information processing section for obtaining a recording and reproduction condition corresponding to a segmented temperature range which includes the measured apparatus temperature (Fig. 1, element 4 and Col. 5, lines 19-24); and a recording and reproduction control section for performing recording and reproduction based on the obtained recording and reproduction condition (Fig. 1, element 12), wherein the adjustment information

Art Unit: 2652

processing section acquires the recording and reproduction condition by adjustment processing (Col. 5, lines 19-24). Adjusting the light power is interpreted as adjustment processing.

In regard to claim 59, Watanabe discloses that the recording and reproduction condition defines an operation condition when an information recording and reproduction apparatus performs data recording and reproduction (Fig. 2).

In regard to claim 62, Watanabe discloses that the information recording medium includes a drive information area having drive information including the recording and reproduction condition recorded therein, and, the adjustment information processing section reads the recording and reproduction condition recorded in the drive information area (Col. 5, lines 32-36).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31, 32, 61, 63 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe in view of Takahashi (US 5,898,655).

In regard to claim 31, Watanabe does not disclose that the drive information includes version information which indicates a condition at which the recording and reproduction condition is acquired, and the method further includes the step of: (e) determining whether the recording and reproduction condition is re-usable or needs to be updated, based on the version information.

Takahashi discloses a drive information area (Fig. 1, PREC and Fig. 2) having drive information including a recording and reproduction condition (Fig. 2, Optimum Recording Power) and version information (Fig. 2, ID) which indicates a condition at which the recording and reproduction condition is acquired recorded therein, a step of reading the recording and reproduction condition recorded in the drive information area (Fig. 4, element S6), and the step of determining whether the recording and reproduction condition is re-usable or needs to be updated, based on the version information (Fig. 4, element S5 and Col. 3, lines 23-29). In the method (Fig. 4) of Takahashi, a recording and reproduction condition is optimized for each combination of information recording medium and information recording and reproduction apparatus by performing a test writing (Col. 3, lines 42-67) while preventing repetition of useless test writing (Col. 4, lines 24-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include version information which indicates a condition at which the recording and reproduction condition is acquired in the drive information area of Watanabe and for the method of Watanabe to further include the step of determining whether the recording and reproduction condition is re-usable or needs to be updated, based on the version information as suggested by Takahashi, the motivation being to optimize a recording and reproduction condition for each combination of information recording medium and information recording and reproduction apparatus by performing a test writing while preventing repetition of useless test writing.

In regard to claim 61, Watanabe does not disclose that the adjustment information processing section records the recording and reproduction condition on the information recording medium.

Takahashi discloses an adjustment information processing section (Fig. 3, elements 3, 8 and 10) that records a recording and reproduction condition (Fig. 2, Optimum Recording Power and Fig. 4, element S13) on the information recording medium (Fig. 3, element 1) so that the recording and reproduction condition is optimized for each combination of information recording medium and information recording and reproduction apparatus by performing a writing (Col. 3, lines 42-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the adjustment information processing section of Watanabe to record the recording and reproduction condition on the information recording medium as suggested by Takahashi, the motivation being to optimize the recording and reproduction condition for each combination of information recording medium and information recording and reproduction apparatus.

In regard to claim 63, Watanabe does not disclose that the drive information includes version information which indicates a condition at which the recording and reproduction condition is acquired, and the adjustment information processing section determines whether the recording and reproduction condition is re-usable or needs to be updated, based on the version information.

Takahashi discloses a drive information area (Fig. 1, PREC and Fig. 2) having drive information including a recording and reproduction condition (Fig. 2, Optimum Recording Power) and version information (Fig. 2, ID) which indicates a condition at which the recording and reproduction condition is acquired recorded therein and an adjustment information processing section (Fig. 3, elements 3, 8 and 10) that reads the recording and reproduction condition recorded in the drive information area (Fig. 4, element S6) and determines whether the recording and reproduction condition is re-usable or needs to be updated, based on the version information

Art Unit: 2652

(Fig. 4, element S5 and Col. 3, lines 23-29). In the information recording and reproduction apparatus (Fig. 3) of Takahashi, a recording and reproduction condition is optimized for each combination of information recording medium and information recording and reproduction apparatus by performing a test writing (Col. 3, lines 42-67) while preventing repetition of useless test writing (Col. 4, lines 24-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include version information which indicates a condition at which the recording and reproduction condition is acquired in the drive information area of Watanabe and for the adjustment information processing section of Watanabe to determine whether the recording and reproduction condition is re-usable or needs to be updated, based on the version information as suggested by Takahashi, the motivation being to optimize a recording and reproduction condition for each combination of information recording medium and information recording and reproduction apparatus by performing a test writing while preventing repetition of useless test writing.

In regard to claims 32 and 64, Takahashi discloses that the version information includes history information concerning firmware for an information recording and reproduction apparatus (Fig. 2, ID).

Response to Arguments

3. Applicant's arguments filed August 5, 2004 with respect to rejections under 35 USC 102(b) based on Watanabe have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "adjustment processing" being different

Art Unit: 2652

than obtaining a recording and reproduction condition by reading a recorded recording and reproduction condition) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). A step or process that obtains a recording and reproduction condition to adjust laser power is interpreted adjustment processing because it is a process that adjusts.

4. Applicant's arguments with respect to rejections under 35 USC 102(e) based on Akagi et al (US 6,434,096) have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

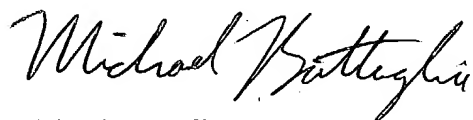
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2652

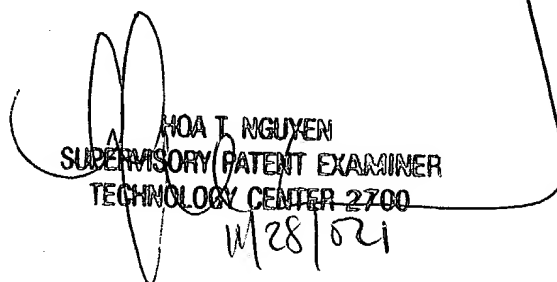
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V Battaglia whose telephone number is (703) 305-4534. The examiner can normally be reached on 5-4/9 Plan with 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Battaglia



HOA T. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2700
11/28/02